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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,123	01/28/2004	Leen Holleman	11953-1960	2104
24504	7590	10/11/2005	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948				PARSLEY, DAVID J
ART UNIT		PAPER NUMBER		
				3643

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/766,123	HOLLEMAN, LEEN	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8-15-05.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9, 11, 12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9, 11-12 and 14-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 8-15-05 and this action is final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

5,494,479 to Lindert et al.

Referring to claim 14, Lindert et al. discloses a method of partially deboning a poultry wing separated from a poultry carcass, the wing having a primary segment – at 10, with a bone – at 12, extending therethrough that was separated from a poultry carcass, a mid-wing segment – at 11, having a pair of bones – at 13a,13b, extending longitudinally therethrough that is joined at an elbow joint to the bone of the primary segment – see for example figure 2, and a tip segment – proximate 41, joined at a tip joint to the bones of the mid-wing segment – see for example figure 2, and an inside surface that faced the carcass and an outside surface that faced away from the

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carcass – see for example figures 1-7, comprising, partially suspending the poultry wing from its tip segment – see for example proximate 56 in figure 7a, advancing the suspended wing segment along a processing path with the outside surface of the right poultry wings facing one side of the processing path and the outside of the left poultry wings facing the same side of the processing path – see for example figures 1-7, bending the primary segment of the wing at the elbow joint laterally about an elbow guide – at 15,16,18,19, positioned on the outside surface of the poultry wing until the elbow joint is opened – see for example figures 1-7, as the elbow joint is opened, stretching the tissue extending between the primary segment and the mid-wing segment about the elbow joint – see for example figures 1-4, separating the stretched tissue extending between the primary segment and the mid-wing segment at the elbow joint at a position that exposes the end of the bone of the primary segment and separates the primary segment form the mid-wing segment – see for example figures 3-5, such that the tissue about the bone end of the primary segment tends to retract from about the bone end and leave the bone end exposed – see for example figures 3-5.

Referring to claim 15, Lindert et al. further discloses after the primary wing segment and has been separated form the mid-wing segment further including removing the mid-wing segment laterally from the tip segment, and popping the bones of the mid-wing segment laterally from the tip segment such that the end of the bones of the mid-wing are exposed – see for example figures 6-8.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

U.S. Patent No. 5,494,479 to Lindert et al. in view of U.S. Patent No. 5,976,004 to Hazenbroek.

Referring to claims 1 and 12, Lindert et al. discloses a method of partially deboning a poultry wing separated from a poultry carcass, the wing having a primary segment – at 10, with a bone – at 12, extending therethrough that was separated from a poultry carcass, a mid-wing segment – at 11, having a pair of bones – at 13a,13b, extending longitudinally therethrough that is joined at an elbow joint to the bone of the primary segment – see for example figure 2, and a tip segment – proximate 41, joined at a tip joint to the bones of the mid-wing segment – see for example figure 2, and an inside surface that faced the carcass and an outside surface that faced away from the carcass – see for example figures 1-7, comprising, partially suspending the poultry wing from its tip segment – see for example proximate 56 in figure 7a, advancing the suspended wing segment along a processing path with the outside surface of the right poultry wings facing one side of the processing path and the outside of the left poultry wings facing the same side of the processing path – see for example figures 1-7, bending the primary segment of the wing at the elbow joint laterally about an elbow guide – at 15,16,18,19, positioned on the outside surface of the poultry wing until the elbow joint is opened – see for example figures 1-7, as the elbow joint is opened, stretching the tissue extending between the primary segment and the mid-wing segment about the elbow joint – see for example figures 1-4, separating the stretched

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tissue extending between the primary segment and the mid-wing segment at the elbow joint at a position that exposes the end of the bone of the primary segment and separates the primary segment from the mid-wing segment – see for example figures 3-5, such that the tissue about the bone end of the primary segment tends to retract from about the bone end and leave the bone end exposed – see for example figures 3-5. Lindert et al. does not disclose suspending the poultry wing from the wing tip segment. Hazenbroek does disclose suspending poultry wings from a tip portion – see for example at item – 100 in figure 13 and column 1 lines 15-22. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Lindert et al. and add the suspending of the poultry by its tip segment of Hazenbroek, so as to allow for pieces of the carcass to be removed and simultaneously moved from the conveying/advancing means.

Referring to claim 2, Lindert et al. as modified by Hazenbroek further discloses advancing the wing with the elbow joint extending forwardly in the processing path – see for example figures 1-7 of Lindert et al.

Referring to claim 3, Lindert et al. as modified by Hazenbroek further discloses advancing the wing with the elbow joint extending rearwardly in the processing path – see for example figures 1-7 of Lindert et al.

Referring to claim 4, Lindert et al. as modified by Hazenbroek further discloses the step of suspending the poultry wing from its tip comprises wedging the tip segment into a slot of the shackle – see at item 100 in figure 13 of Hazenbroek.

Referring to claim 5, Lindert et al. as modified by Hazenbroek further discloses the step of advancing the suspended wing along a processing path comprises, advancing the wing along a substantially rectilinear path – via item 75 of Hazenbroek, toward a rotary guide – at 70, placing

the mid-wing segment of the wing in contact with the rotary guide – see for example figure 13 of Hazenbroek, advancing the wing in unison with and about the rotary guide – see for example figure 13 of Hazenbroek, performing the steps of bending, stretching and separating the wing as the wing advances with the rotary guide – see for example figure 13 of Hazenbroek.

Referring to claim 6, Lindert et al. as modified by Hazenbroek further discloses the step of advancing the wing in unison with the rotary guide comprises, moving a positioning block – at 79,80, in unison with the rotary guide and engaging the wing with the positioning block – see for example figure 13 of Hazenbroek.

Referring to claim 7, Lindert et al. as modified by Hazenbroek further discloses the step of advancing the wing in unison with the rotary guide comprises, advancing the wing along an arcuate path of approximately 180 degrees about an axis of rotation of the rotary guide at a speed greater than the speed at which the wing is advanced along the substantially rectilinear path – see for example figure 13 of Hazenbroek and U.S. Patent No. 5,067,927 to Hazenbroek et al. which shows the operation of the device of figure 13 of Hazenbroek ‘004.

Referring to claim 8, Lindert et al. as modified by Hazenbroek further discloses maintaining the mid-wing segment in contact with the guide – at 18,19, as the primary segment is bent about the elbow guide – at 15,16, until the elbow joint is opened and then separated – see for example figures 1-7 of Lindert et al.

Referring to claim 9, Lindert et al. as modified by Hazenbroek further discloses after the primary wing segment has been separated from the mid-wing segment, advancing the mid-wing segment and the tip segment along a second processing path – see for example figure 7a of Lindert et al., as the mid-wing segment and tip segment are advanced along the second

processing path, compressing the wing tip segment – at 56 in figure 7a, forcing the mid-wing segment laterally with respect to the tip segment – see at 42-56 in figure 7a, and popping the bones of the mid-wing segment laterally from the tip segment, such that the end of the bones of the mid-wing are exposed – see for example figures 7a and 8a of Lindert et al.

Referring to claim 11, Lindert et al. as modified by Hazenbroek further discloses cooking the primary segment and the mid-wing segment after they have been separated from each other, such that the ends of the bones of the segments protrude from the tissue remaining on the bones and are available to be grasped by the human hand without touching the tissue remaining on the bones – see for example figure 6, column 1 lines 15-22 and column 4 lines 61-67 of Lindert et al.

Response to Arguments

4. Regarding claims 1, 7, 9 and 12, applicant argues that the Lindert et al. reference US 5494479 discloses cutting the elbow joint of the wing from the bones of the wing which is different from applicant's invention. However, applicant has not placed these differences into the claim language. Further, the Lindert et al. reference discloses a tip segment of the wing – see at the ends of the wing in figures 1-7. Further, the Lindert et al. reference discloses bending the wing at the elbow joint as seen in figures 1-6 where the wing is bent about the elbow joint via the forces applied to the wing via the cutting/deboning device. Further, the Lindert et al. reference discloses stretching the tissue between the segments of the wing as seen in figures 1-6, where the forces of the components of the device such as at 15-22, acting on the wing cause portions of the wing to stretch. Applicant further argues that the Lindert et al. reference does not disclose

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suspending the wing from the tip segment. However, the Hazenbroek reference US 5976004 does disclose suspending portions of a carcass from the tip segment as seen in figure 13 where the wing is suspended at item 100 via one of its tips, and the combination of the Lindert et al. and Hazenbroek references renders the claims obvious given the motivation to combine the references stated above in paragraph 3 of this office action. Applicant further argues that the Hazenbroek reference is used in a meat stripping application and not a deboning application. However, the Hazenbroek reference is used to only teach the suspending of the portions of the carcass via the tip and therefore it is deemed that the suspending of the carcass by the tip can be used in any type of processing application such as deboning. Applicant further argues that the end product of the Lindert et al. reference is different than that of applicant's invention. However, the process to make the end product and not the end product is being claimed and therefore this argument is moot.

Regarding claims 2-3, the Lindert et al. reference discloses the elbow extends forwardly or rearwardly in that applicant does not claim what the elbow extends forwardly or rearwardly with reference to. Therefore, the elbow can be construed as extending forwardly or rearwardly of any of the components of the device of Lindert et al.

Regarding claim 4, the Hazenbroek reference discloses suspending the carcass wing from its tip as seen in column 1 lines 15-22 which shows the device is used on poultry wings and in figure 13 where the carcass portions are suspended from item 100 via a tip portion of the carcass portion.

Regarding claim 5, applicant argues that the Hazenbroek reference does not disclose bending, stretching and separating the wings. However, as seen in figure 13 of Hazenbroek the

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bending, stretching and separating is performed via the actions of the device of figure 13 acting on the carcass portions.

Regarding claim 6, the Hazenbroek reference does disclose moving a positioning block – at 79-80, by advancing the wing suspended – at 100, with a rotary guide being either items 85-87 or the conveyor apparatus as seen in figure 13.

Regarding claim 8, the Lindert et al. reference discloses the bending of the wing about the elbow joint as seen above regarding claim 1 in this paragraph of this office action. Further, the Lindert et al. reference discloses opening and separating the elbow joint via the blades – at 22 as seen in figures 1-7.

Regarding claim 9, the Lindert et al. reference does disclose further processing the wing tip of the wing as seen in figures 6-8, where the blades – at 43-44, act to compress the tip segment with item – 59, forcing the mid-wing segment laterally and then popping the bones – at 13a,13b of the mid-wing segment from the tip segment via items 55-56 as seen in figure 7a to expose the bones a seen in figure 8a.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP
David Parsley
Patent Examiner
Art Unit 3643


PETER M. POON
SUPERVISORY PATENT EXAMINER

10/6/05